



POLICE DEPARTMENT CITY OF NEW YORK

December 23, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Gladstone Haynes  
Tax Registry No. 938645  
70 Precinct  
Disciplinary Case No. 2014-11336  
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**Charges and Specifications:**

1. Said Police Officer Gladstone Haynes, on November 29, 2013, while assigned to the 70<sup>th</sup> Precinct did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department to wit: Police Officer Haynes received an assignment from Central Dispatch to respond to a call for help (10-10) and failed to conduct a proper investigation.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT  
PROHIBITED CONDUCT

**Appearances:**

For Department Advocate's Office: Jessica Brenes, Esq.  
For Respondent: John Tynan, Esq.

**Hearing Date (s):**

October 7, 2015

**Decision:**

Not Guilty of the sole Specification

**Trial Commissioner:**

ADCT Paul M. Gamble

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 7, 2015. Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Department called Lieutenant Gerardo Meola as a witness. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

## DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Not Guilty of the Specification.

## FINDINGS AND ANALYSIS

In this case, Respondent is charged with a single specification of failing to properly investigate a radio call.

It is undisputed that Respondent and his partner received a "10-10 Call for Help" from Central Dispatch at approximately 0930 hours on November 29, 2013, in the vicinity of [REDACTED] a single-family home (*T. 15, 17*). It is further undisputed that at the time Respondent received the call from Central Dispatch, he was aware that the address provided to him, [REDACTED] was identified through the use of an NYPD cell tower triangulation system known as "ANI/ALI", which provides an approximate location, not an actual address. Furthermore, Respondent was fully aware that the ANI/ALI system did not give a specific address but rather the approximate vicinity of an assignment.

It is further undisputed that after a brief conversation with a male, who identified himself as the owner of [REDACTED] as well as a nanny employed by the same owner, Respondent determined that no one at that address was in need of assistance. It is further undisputed that neither Respondent nor his partner exited their vehicle to continue their investigation.

The sole issue before this tribunal is whether the actions taken by Respondent in response to this 10-10 call constituted a proper investigation as contemplated by the Patrol Guide.

Lieutenant Gerardo Meola testified credibly that in his role as the 70<sup>th</sup> Precinct patrol monitoring officer, he heard the same radio call which Respondent acknowledged. He then proceeded to the location of the call to monitor Respondent's conduct. Lieutenant Meola expressed the opinion, which is not dispositive of the issue before the tribunal, that Respondent should have exited his vehicle and knocked on doors of adjoining homes on the block to ascertain whether there was anyone in the vicinity who needed police assistance. Lieutenant Meola testified that the nature of an "ANI/ALI" radio call was such that a responding officer should know that the address given is only a geographic approximation and that determining the actual source of the call would likely require some investigation beyond a visual inspection of the address contained in the radio call.

The Department offered in evidence a recording of the 911 call which eventually gave rise to the "10-10" radio call Respondent accepted (*Department Exhibit 1*). While Lieutenant Meola testified that he listened to that call after he had observed Respondent's action at the scene, Respondent testified unequivocally that he never heard it (*T. 75*).

Since I credit his testimony in this regard, I will not consider the exhibit in reaching my findings.

Based upon the credible evidence in the record, I find that Respondent's actions at the scene were reasonable. The discretion afforded police officers in the performance of their duties is broad. The Patrol Guide charges police officers with "render[ing] all necessary police service in assigned area and as otherwise directed" (*P.G. 202-21[8]*). In large part, responding police officers determine, after assessing the facts and circumstances before them, just what "necessary police service" means in each instance. I interpret that Patrol Guide provision to mean taking all reasonable steps available to the police officer, based upon the facts in his possession at the time of the incident, his training, experience, available manpower, equipment and prioritization of resources.

In this instance, Respondent was provided limited information about the nature and location of what may have been an emergency call. I credit his testimony, in which he described his actions on the scene, as logical and forthright. After arriving at the scene and speaking with two adults apparently associated with the only identifiable address contained in the call, he reasonably concluded that neither of them, or anyone else at that address, was in danger (*T. 19-20, 58, 73*). Out of an apparent abundance of caution, Respondent contacted Central Dispatch to have them call back the number from which the 911 call originated to see if more information was available (*T. 74*). When he learned that the callback attempt was unsuccessful, Respondent nevertheless made a visual inspection of the rest of the houses on the block before he left the area (*T. 75*). Respondent's recollection was that he spent five to six minutes on the scene before he departed (*T. 59*).

Lieutenant Meola returned to the scene after Respondent and his partner departed. He spoke with the homeowner who had previously spoken with Respondent who confirmed that he informed Respondent that he did not request police assistance (*T. 20*). Lieutenant Meola called Central Dispatch on his own accord, obtained the telephone number from which the call originated but received no response (*Id.*). After listening to the recording of the 10-10 call, Lieutenant Meola stepped out of his vehicle and looked down the driveway of [REDACTED] from the porch of the house but neither walked down the driveway nor entered the backyard (*T. 23*). In the view of this tribunal, Lieutenant Meola's remedial efforts appeared to be no more extensive than Respondent's with similar results.

Based upon his credible testimony, Respondent well understood that he was provided limited information and, in my view, sought as much additional information as he could reasonably acquire at the scene. That he was unable to discern the genesis of the call, given his limited resources, should not be interpreted as a professional lapse. Indeed, in a city of over 8 million inhabitants, it is likely that there are thousands who need assistance of some sort at any given moment. That said, no matter how motivated and well-intentioned police officers may be, they cannot render assistance if they are unable to identify the place where it is needed.

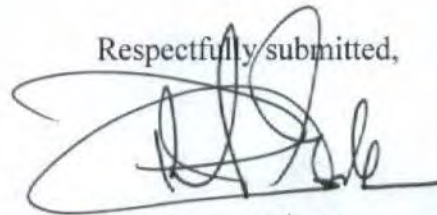
Members of the service have been disciplined in cases where they were dispatched to a specific location, and were informed of the nature of a distress call yet failed to pursue entry into that location to render assistance (*see Case No. 2014-11418* [February 13, 2015] Fifteen-year sergeant with one prior adjudication forfeits 15 vacation days for failing to provide police assistance after responding as the patrol supervisor to

the wellness check of a sick, elderly man. Respondent's failure to take down the door was unreasonable under the circumstances. Respondent was aware that officers had been unable to gain entry to the apartment during a wellness check at the location a week earlier, and the elderly man had not been seen by neighbors since that time. That seven additional days had gone by without the man making an appearance was critical).

Moreover, even if Respondent had listened to the recording of the 911 call while at the scene, which he did not, he would have had no more specific information than he originally received from the Central dispatcher. Listening to the call may well have increased Respondent's desire to take some sort of action but would have left him similarly powerless to bring his available resources to bear.


Under these circumstances, Respondent's investigation of the radio call was reasonable and adequate.

Respectfully submitted,



Paul M. Gamble, Sr.  
Assistant Deputy Commissioner Trials

**APPROVED**

JAN 14 2016  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER